IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

MFA.No. 1458 of 2001(B)

OPMV.1686/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY
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APPELLANT: PETITIONER

P.P.SHYLENDRA KUMAR,
S/O LATE KUNHIRAMAN AGED 38 YEARS
L.I.C AGENT, LAKSHMI KUMBHAM,
KOODALI P.O, KANNUR DISTRICT

BY ADV. SRI.M.P.ASHOK KUMAR
SRI.P.NARAYANAN
SRI.N. GANGADHARAN

RESPONDENTS: RESPONDENTS
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1. A.K.P KHALID S/O HUSSAIN
AGED NOT KNOWN "FAISAS", MUZHATHADAM
P.O. THANA, KANNUR
(DRIVER OF CAR KRC 7575)

2. K.K.FAISAL S/O A.K.P KHALID
"FAISAS", MUZHATHADAM
P.O THANA, KANNUR
(OWNER OF CAR KRC 7575)

3. M/S UNITED INDIA INSURANCE CO.LTD
BROTHERS COMPLEX, KANNUR
(POLICY NO. 100805/31/01/4431/7/95)
(CERTIFICATE NO.CNRO 620643)

BY ADV. SRI.I.V.PRAMOD
SMT.P.A.REZIYA

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/09/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A. No.1458 of 2001

Dated this the 5th day of September 2007

JUDGMENT

1. The petitioner in O.P(MV) 1686/1996 on the file of the Motor Accident Claims Tribunal, Thalasery is the appellant. This appeal is filed against the award passed by the Tribunal awarding a compensation of Rs. 56,310/- to the appellant . The appellant sustained injuries in a motor vehicle accident which took place on 5-4-1996 while he was riding the Motor cycle. A collision took place between the motor cycle which the appellant was riding and a car bearing Regn No.KRC 7575 owned by the 2nd respondent and driven by the 1st respondent. The appellant claimed Rs. 2,50,000/- as compensation. The Tribunal awarded Rs. 56,310/-. According to the appellant the compensation awarded by the Tribunal is very low. Hence this appeal.

2. The finding of the Tribunal that the accident occurred due to the negligence of the driver of the car and the appellant is entitled to get compensation are become final and conclusive. The only question arising for consideration is whether the appellant is entitled to get any additional compensation. According to the appellant he produced the disability certificate issued by a Medical board fixing the disability at 15%. The evidence on record shows that the appellant sustained fracture of zygomatic bone and fracture of wrist. The Tribunal took a view that the

evidence adduced by the appellant will show that the accident had not diminished his working potential. Considering all aspects of the matter I am of the view that the Tribunal ought to have awarded an amount of 10,000/- more on the count of loss of amenities. I do not find any reason to enhance the compensation awarded on other counts.

In the result, the appeal is allowed in part. It is found that the appellant is entitled to get an additional compensation of Rs.10,000/- at 6% interest from the date of filing of the petition till the date of realisation. The 3rd respondent insurer is directed to deposit the amount. On deposit the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR, JUDGE

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